



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2005 AUG 29 A 9 16

HEARINGS OFFICE

REAL ESTATE COMMISSION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII


In the Matter of the Application for)	REC-LIC-2005-1
a Real Estate Salesperson's License of)	
)	COMMISSION'S FINAL ORDER
ASHLEY SMITH,)	
)	
Petitioner.)	
_____)	

COMMISSION'S FINAL ORDER

On July 28, 2005, the duly appointed Hearings Officer submitted her proposed Findings of Fact, Conclusions of Law and Recommended Order in the above-entitled matter to the Real Estate Commission ("Commission"). The parties were given an opportunity to file written exceptions, however no exceptions were filed.

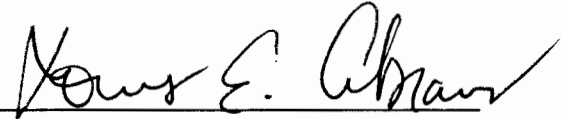
Upon review of the entire record of this proceeding, the Commission adopts the Hearings Officer's proposed decision as the Commission's Final Order and dismisses this matter on the grounds that Petitioner failed to prosecute his request for hearing and meet his burden of proof at the hearing. Accordingly, the Commission affirms its denial of Petitioner's application for a real estate salesperson's license.

DATED: Honolulu, Hawaii: August 26, 2005.


TRUDY I. NISHIHARA
Chairperson



IRIS R. OKAWA
Vice Chairperson



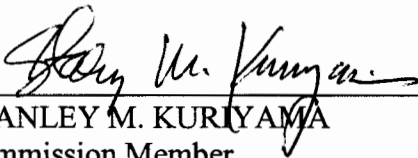
LOUIS E. ABRAMS
Commission Member



CAROL MAE A. BALL
Commission Member



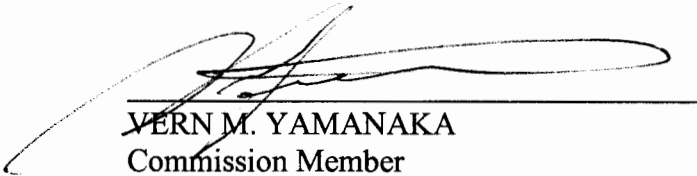
KATHLEEN H. KAGAWA, Ph.D.
Commission Member



STANLEY M. KURIYAMA
Commission Member



MICHELE SUNAHARA LOUDERMILK
Commission Member



VERN M. YAMANAKA
Commission Member



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2005 JUL 28 A 11: 28

REAL ESTATE COMMISSION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

HEARINGS OFFICE

In the Matter of the Application for)	REC-LIC-2005-1
a Real Estate Salesperson's License of)	
)	HEARINGS OFFICER'S FINDINGS OF
ASHLEY SMITH,)	FACT, CONCLUSIONS OF LAW AND
)	RECOMMENDED ORDER GRANTING
Respondent.)	RESPONDENT'S MOTION TO DISMISS
_____)	

HEARINGS OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDED
ORDER GRANTING RESPONDENT'S MOTION TO DISMISS

I. INTRODUCTION

On April 26, 2005, Ashley Smith ("Petitioner") filed a request for an administrative hearing with the Real Estate Commission ("Commission") to contest the denial of his application for a real estate salesperson's license. The Office of Administrative Hearings received Petitioner's request for hearing on April 27, 2005, and the matter was duly set for hearing. The notice of hearing and prehearing conference was transmitted to the parties. By agreement, the hearing was continued from June 30, 2005 to July 6, 2005.

On July 6, 2005, the hearing was convened by the undersigned Hearings Officer. Petitioner was not present, nor was anyone present on his behalf. The Department of Commerce and Consumer Affairs ("Respondent") was represented by its attorney Lei S. Fukumura.

At the commencement of the hearing, Respondent orally moved to dismiss this matter. Having reviewed and considered the motion, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order granting Respondent's motion to dismiss.

II. FINDINGS OF FACT

1. On April 26, 2005, Petitioner requested an administrative hearing to contest the denial of his application for a real estate salesperson's license.
2. Petitioner's request for hearing was received by the Office of Administrative Hearings on April 27, 2005, and the matter was duly set for hearing.
3. Petitioner was served with the Notice of Hearing and Pre-Hearing Conference on May 3, 2005 by certified mail, return receipt requested.
4. Petitioner appeared at the pre-hearing conference on May 31, 2005, and agreed to reschedule the hearing from June 30, 2005 to July 6, 2005. Petitioner received the Notice of Rescheduled Hearing on June 3, 2005.
5. The hearing proceeded as scheduled on July 6, 2005.
6. Petitioner was not present, nor was anyone present on his behalf even though the hearing was delayed approximately fifteen (15) minutes to await the arrival of Petitioner.

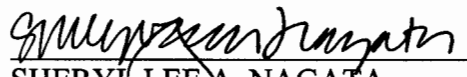
III. CONCLUSIONS OF LAW

The Hearings Officer makes no substantive conclusions as to the merits, if any, of Petitioner's request since he failed to appear and present his case. The Hearings Officer does conclude, however, that Petitioner has procedurally failed to prosecute his case and in the absence of any evidentiary presentation, has failed to carry his burden of proof to show that the Commission's denial of his application was improper.

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer recommends that the Commission dismiss this matter on the grounds that Petitioner failed to prosecute his request for hearing and meet his burden of proof at the hearing, and affirm its denial of Petitioner's application for a real estate salesperson's license.

DATED: Honolulu, Hawaii, JUL 28 2005.


SHERYL LEE A. NAGATA
Administrative Hearings Officer
Department of Commerce
and Consumer Affairs